

EXHIBIT

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1 IN THE UNITED STATES DISTRICT COURT FOR THE
2 NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

3 IN RE NATIONAL PRESCRIPTION)
OPIATE LITIGATION)
4) MDL No. 2804

5 This Document Relates To:) Case No. 17-md-2804
6 Track Nine: Tarrant County,)
7 Texas)
)
7 (Case No. 1:18-op-45274-DAP))
)

<p>1 personal capacity?</p> <p>2 A. Professional.</p> <p>3 Q. Okay. All right. So I think you're</p> <p>4 familiar with some of the rules of a deposition, but</p> <p>5 I'll just go over some ground rules. One is I'll</p> <p>6 probably be asking you most of the questions today</p> <p>7 and other lawyers may also do the same, and it is</p> <p>8 important that the court reporter captures</p> <p>9 everything. So we should do our best to not speak</p> <p>10 over each other and to give verbal responses to all</p> <p>11 the questions. Does that sound good?</p> <p>12 A. It does, yes.</p> <p>13 Q. All right. And one of the things we need</p> <p>14 to be careful is not talk over each other so, again,</p> <p>15 Karen's job is made as simple as possible.</p> <p>16 A. Sounds good, yes.</p> <p>17 Q. All right. And also, you know, we are</p> <p>18 taking this on Zoom, which some of us have become</p> <p>19 probably more familiar with than probably taking a</p> <p>20 live deposition, but if you have any communication</p> <p>21 issues, please let us know. And, you know, if I'm</p> <p>22 asking you to look at a document, let's confirm that</p> <p>23 you're looking at the right document.</p> <p>24 We have a concierge today, Mr. Gregg</p> <p>25 Holderman, who will be putting it up and down on the</p>	Page 6	<p>1 MR. SHERE: Yes.</p> <p>2 MS. ABSTON: Okay. Great.</p> <p>3 MR. SHERE: Yeah. When I refer to</p> <p>4 Exhibit 1, it should be the corresponding tab.</p> <p>5 MS. ABSTON: Okay. Thank you.</p> <p>6 MR. SHERE: Okay.</p> <p>7 BY MR. SHERE:</p> <p>8 Q. And have you seen this document before,</p> <p>9 Dr. Johnson?</p> <p>10 A. I have, yes, sir.</p> <p>11 Q. Okay. And do you understand that today</p> <p>12 you are testifying in your personal capacity?</p> <p>13 A. Professional capacity, yes.</p> <p>14 Q. All right. Are you familiar with this</p> <p>15 lawsuit that you're being deposed in today?</p> <p>16 A. I am not, no, sir.</p> <p>17 Q. Okay. And when you say you're not</p> <p>18 familiar with this lawsuit, you don't know what the</p> <p>19 allegations are?</p> <p>20 A. I do not.</p> <p>21 Q. Okay. Do you know that the plaintiff in</p> <p>22 this case is the municipal government of Tarrant</p> <p>23 County, Texas?</p> <p>24 A. I was told that, yes.</p> <p>25 Q. Okay. Did anyone working on behalf of the</p>
<p>1 screen, so it'll be a double confirmation, both the</p> <p>2 hard copy in front of you and the one on the screen.</p> <p>3 So we'll make sure that all that goes well.</p> <p>4 Correct?</p> <p>5 A. Okay. Sounds good.</p> <p>6 Q. Okay. One last thing. If I ask you a</p> <p>7 question and for any reason you do not understand</p> <p>8 the question, please let me know and I'll try to</p> <p>9 rephrase it or ask it again.</p> <p>10 A. Okay.</p> <p>11 Q. Does that sound fair?</p> <p>12 A. It does.</p> <p>13 Q. And also, by the same token, if I ask you</p> <p>14 a question and you answer it, we'll all assume that</p> <p>15 you understood the question and answered</p> <p>16 appropriately. Correct?</p> <p>17 A. Yes, sir.</p> <p>18 (Exhibit 1 marked)</p> <p>19 Q. Thank you, sir. So first, let's look at</p> <p>20 Exhibit 1 which is the second amended notice of</p> <p>21 remote videotaped deposition of Dr. Robert Johnson.</p> <p>22 Do you see that as Exhibit 1?</p> <p>23 A. I do.</p> <p>24 MS. ABSTON: Is Exhibit 1 Tab 1? Sorry.</p> <p>25 Just want to clarify that.</p>	Page 7	<p>1 plaintiff contact you before filing this lawsuit? I</p> <p>2 would imagine not, but we need to know.</p> <p>3 A. No. No, sir.</p> <p>4 Q. And has anyone from the plaintiff's office</p> <p>5 spoken to you before your deposition?</p> <p>6 A. They have, yes, sir.</p> <p>7 Q. And do you recall who spoke to you?</p> <p>8 A. Alex on the call today.</p> <p>9 Q. All right. And when Alex spoke to you, do</p> <p>10 you know who else was on that call?</p> <p>11 A. Sadie was as well.</p> <p>12 Q. All right. Did you have any personal</p> <p>13 counsel present at that meeting?</p> <p>14 A. No.</p> <p>15 Q. Okay. So were Alex and Sadie the only two</p> <p>16 people on the call?</p> <p>17 A. To the best of my knowledge. I don't</p> <p>18 remember anybody else.</p> <p>19 Q. Okay. And did you review any documents in</p> <p>20 preparation for your deposition?</p> <p>21 A. I did not, no.</p> <p>22 Q. Okay. And did you take any notes as part</p> <p>23 of the preparation for your deposition?</p> <p>24 A. I did not, no.</p> <p>25 Q. Okay. And obviously you don't have any</p>

<p>1 notes in front of you today, correct?</p> <p>2 A. No. No, sir.</p> <p>3 Q. And you don't have any personal counsel</p> <p>4 present with you sitting to your side in this</p> <p>5 deposition, correct?</p> <p>6 A. No, not my personal counsel, no.</p> <p>7 (Exhibit 2 marked)</p> <p>8 Q. All right. Okay. Let's look at</p> <p>9 Exhibit 2, which is Tab 2. And Dr. Johnson, just to</p> <p>10 ease your concerns that the documents are probably</p> <p>11 more voluminous than they need to be, especially one</p> <p>12 document, so don't worry about the number of</p> <p>13 documents.</p> <p>14 A. I was a little concerned. I'm glad you</p> <p>15 said that.</p> <p>16 Q. One of them is like hundreds of pages and</p> <p>17 we're going to be using maybe one or two pages.</p> <p>18 MR. SHERE: All right. So if you could</p> <p>19 put that, Gregg, on the screen.</p> <p>20 Q. Dr. Johnson, do you recognize this</p> <p>21 document as your LinkedIn profile?</p> <p>22 A. It appears to be, yes.</p> <p>23 Q. Your photograph is a little different from</p> <p>24 you on screen today, but that happens to all of us</p> <p>25 on LinkedIn, doesn't it?</p>	<p>Page 10</p> <p>1 Q. And you have continued to maintain your</p> <p>2 certification since 2011?</p> <p>3 A. Yes, sir.</p> <p>4 Q. All right. Very good. And what was the</p> <p>5 second agency you said?</p> <p>6 A. The Texas Forensic Science Commission</p> <p>7 requires all forensic scientists within the state to</p> <p>8 obtain and then maintain a license to practice.</p> <p>9 Q. Okay. And when did you get certified or</p> <p>10 licensed by this agency?</p> <p>11 A. They started that program I believe it was</p> <p>12 2018, so that would have been the year that we were</p> <p>13 all required to obtain the license.</p> <p>14 Q. And have you been continually licensed by</p> <p>15 TFSC, which we'll call the Texas Forensic Science</p> <p>16 Commission, since 2018?</p> <p>17 A. Yes, sir.</p> <p>18 Q. Very good. Dr. Johnson, have you given</p> <p>19 any presentations on toxicology?</p> <p>20 A. Many, many, yes. As we mentioned earlier,</p> <p>21 I'm getting old now, so the list is long.</p> <p>22 Q. Okay. Could you give us some random</p> <p>23 examples of presentations that you may have given on</p> <p>24 toxicology.</p> <p>25 A. Most -- most recently, they've focused on</p>
<p>1 A. I am officially old now, yes.</p> <p>2 Q. And I gather from reading this, if you</p> <p>3 look at the bottom of that page, which of course you</p> <p>4 are familiar with, is that you have a Ph.D. in</p> <p>5 analytic chemistry from the University of Oklahoma,</p> <p>6 correct?</p> <p>7 A. Yes, sir.</p> <p>8 Q. And by judging by that, you're not an M.D.</p> <p>9 but a Ph.D., right?</p> <p>10 A. That is correct. I am not a medical</p> <p>11 doctor.</p> <p>12 Q. And are you board certified or licensed in</p> <p>13 any specialties?</p> <p>14 A. I'm board certified by the American Board</p> <p>15 of Forensic Toxicology, and I'm licensed by the</p> <p>16 State of Texas to work on forensic casework within</p> <p>17 the state.</p> <p>18 Q. Okay. Let's first talk about the first</p> <p>19 entity that you mentioned, the American Board of</p> <p>20 Forensic Toxicology. Is that -- did I say that</p> <p>21 correctly?</p> <p>22 A. You did, yes, sir.</p> <p>23 Q. And when did you become -- did you say</p> <p>24 certified or licensed?</p> <p>25 A. Certified. 2011.</p>	<p>Page 11</p> <p>1 standardization within the field. Before that, it</p> <p>2 was more analytical in nature, novel methods or ways</p> <p>3 to detect drugs. So it really spans the whole gamut</p> <p>4 of the field.</p> <p>5 Q. You just used a term that I'm not familiar</p> <p>6 with, "standardization in the field." And I assume</p> <p>7 you mean the toxicology field. Could you tell us</p> <p>8 what you meant by that?</p> <p>9 A. I can, yeah. So there's been a shift over</p> <p>10 the last seven years or so to perform analyses more</p> <p>11 consistently laboratory to laboratory around the</p> <p>12 country. So we've spent a lot of time and effort</p> <p>13 writing guidelines and standards to help</p> <p>14 laboratories obtain a certain expected ability to</p> <p>15 perform certain analyses.</p> <p>16 Q. And have these guidelines been</p> <p>17 incorporated somewhere?</p> <p>18 A. They are published as American national</p> <p>19 standards. It's up to the laboratories to actually</p> <p>20 implement and incorporate them into their casework,</p> <p>21 but they are -- we have a list of about 10 to 12</p> <p>22 that are published American national standards at</p> <p>23 this point.</p> <p>24 Q. Okay. And even -- if we were to go</p> <p>25 looking for them, what would be the easiest way to</p>

<p>1 find them? American national standards for 2 toxicology?</p> <p>3 A. You can start there. The easiest way is 4 to Google OSAC, O-S-A-C, Registry. And then 5 forensic toxicology has a subcommittee within that 6 link.</p> <p>7 Q. I see. So at the start of the deposition, 8 Dr. Johnson, you mentioned that you have given prior 9 depositions in your professional capacity. So first 10 let me ask you, have you ever given testimony in a 11 deposition regarding controlled substances or 12 opioids?</p> <p>13 A. Oh, I'm sure that I have, but it would 14 have been related to the effects of drugs and how 15 they affect human performance.</p> <p>16 Q. Okay. Would that have been specific to 17 opioids or just controlled substances generally?</p> <p>18 A. More general. I don't remember a specific 19 opioid-related case that -- where I was asked in a 20 deposition about the effects.</p> <p>21 Q. Okay. And would this have been a 22 deposition in court or would it also have been part 23 of a trial testimony?</p> <p>24 A. It could have been either. Trial 25 testimony is much more common for us and me</p>	<p>Page 14</p> <p>1 the laboratory. So it's -- it would be in support 2 of TCME and it could be requested by either side, 3 the plaintiff or the defense.</p> <p>4 In civil court it's been both situations. 5 So a laboratory report from my laboratory is used in 6 a civil trial and I was asked to explain what was 7 found. I've also been retained outside of our 8 laboratory's work to help explain what was found by 9 a different laboratory.</p> <p>10 Q. Okay. And in that instance, as you 11 pointed out, you were retained as a testifying 12 expert for a particular side?</p> <p>13 A. Yes, sir.</p> <p>14 Q. And do you recall what side?</p> <p>15 A. It's --</p> <p>16 MS. ABSTON: Objection, form.</p> <p>17 A. It's been both sides. Sorry.</p> <p>18 Q. Both. And when you say both sides, you 19 mean the plaintiff and the defendants?</p> <p>20 A. Yes, sir.</p> <p>21 Q. And that would be criminal defendants or 22 civil defendants?</p> <p>23 A. Civil.</p> <p>24 Q. Okay. You have not testified as a 25 retained expert in a criminal case, correct?</p>
<p>Page 15</p> <p>1 personally. I'm in criminal court weekly. I don't 2 give depositions as often certainly.</p> <p>3 Q. Okay. So let's talk about that a little 4 bit. So when you appear in court, what are you 5 typically appearing as and for what reason?</p> <p>6 A. So when I'm in criminal court, I'm asked 7 to interpret the results of a forensic toxicology 8 report. So it could be related to the drugs that 9 were found and how those drugs affect human 10 performance. And any case type is possible from 11 misdemeanor DWI to capital murder.</p> <p>12 Q. Okay. And do you -- have you also 13 appeared in civil trials?</p> <p>14 A. I have, yes.</p> <p>15 Q. And what was the occasion for your 16 appearance in a civil trial?</p> <p>17 A. The exact same purpose, explaining the 18 compounds found on a tox report, what they are, how 19 they affect the body, and then what side effects may 20 be exhibited.</p> <p>21 Q. And in these appearances, do you typically 22 testify on behalf of the TCME, or do you also 23 testify as an expert?</p> <p>24 A. So in criminal court, we -- I am 25 testifying in support of the results generated by</p>	<p>Page 17</p> <p>1 A. No, sir, I have not.</p> <p>2 Q. All right. And also, just to clarify one 3 thing from your earlier testimony, when you said 4 you've given testimony, you have given testimony 5 about controlled substances, but you -- as you sit 6 here today, at least, you don't recall having given 7 any testimony at a deposition or trial about 8 opioids, correct?</p> <p>9 MS. ABSTON: Objection, form.</p> <p>10 A. There have been opioid-related DWI cases, 11 yes. So in an instance where an opioid is the drug 12 found in a driving-while-intoxicated case, I am 13 asked to explain the effects of opioids in a case 14 like that.</p> <p>15 Q. Wonderful. And have you ever been 16 retained as an expert at a trial on an issue 17 involving opioids?</p> <p>18 A. Not that I can recall, no, sir.</p> <p>19 Q. Okay. Now, according to your profile, 20 you're serving as the chief toxicologist at the 21 Tarrant -- at the TCME, correct?</p> <p>22 A. Yes, sir, that is correct.</p> <p>23 Q. And you started in this position on April 24 of 2011?</p> <p>25 A. Yes, sir.</p>

<p style="text-align: right;">Page 18</p> <p>1 Q. And is that still your position today?</p> <p>2 A. It is, yes.</p> <p>3 Q. Congratulations. You've held out for a</p> <p>4 decade, or more than a decade now, 12 years.</p> <p>5 A. Yes, sir. Thank you.</p> <p>6 Q. Could you tell us briefly what your duties</p> <p>7 are as the chief toxicologist for TCME.</p> <p>8 A. I can. I oversee day-to-day operation of</p> <p>9 two laboratory sections within our office, the</p> <p>10 forensic toxicology laboratory and then the seized</p> <p>11 drugs laboratory.</p> <p>12 For forensic toxicology, I oversee and</p> <p>13 review all of the data generated by the laboratory,</p> <p>14 and then I review and sign the final reports from</p> <p>15 cases that are worked by the laboratory. I also</p> <p>16 have to make personnel decisions and things like</p> <p>17 that too administratively.</p> <p>18 My role for seized drugs is reviewing</p> <p>19 cases that are completed by the laboratory and</p> <p>20 ensuring that they're all done properly before</p> <p>21 they're released to the customer.</p> <p>22 Q. Okay. Who would the customer be in that</p> <p>23 case?</p> <p>24 A. So it could be a pathologist in a</p> <p>25 postmortem case. It could be law enforcement. It</p>	<p style="text-align: right;">Page 20</p> <p>1 very often, but that is a possibility.</p> <p>2 Q. And who is your deputy?</p> <p>3 A. Aria McCall.</p> <p>4 Q. Okay. How do you spell that name?</p> <p>5 A. A-R-I-A, M-C-C-A-L-L.</p> <p>6 Q. Okay. Now, let me ask you a question.</p> <p>7 The toxicology department doesn't make a judgment as</p> <p>8 to whether a certain substance or a combination of</p> <p>9 substances is the cause of death, correct?</p> <p>10 A. We do not. That is correct.</p> <p>11 Q. Okay. And correct me if I'm wrong, but</p> <p>12 the toxicology department's job is to make a</p> <p>13 determination of what drugs are present and in what</p> <p>14 amounts, correct?</p> <p>15 A. That is our role, yes, sir.</p> <p>16 Q. The interpretation as to whether or not</p> <p>17 the drug caused or contributed to a death would be</p> <p>18 up to the medical examiner who sent your department</p> <p>19 a specimen request, correct?</p> <p>20 A. Yes, sir, that is correct.</p> <p>21 Q. And on that note, does the TCME have</p> <p>22 regular meetings with the toxicologist where cases</p> <p>23 are discussed and the toxicologists give input into</p> <p>24 the meaning of the results?</p> <p>25 A. No, we do not have regular meetings.</p>
<p style="text-align: right;">Page 19</p> <p>1 could be the -- an attorney from either the</p> <p>2 plaintiff or the defense. Those are our typical</p> <p>3 customers.</p> <p>4 Q. Okay. Now, you mentioned two things, and</p> <p>5 I just want to confirm that they're actually</p> <p>6 divisions of TCME. You mentioned forensic</p> <p>7 toxicology and seized drugs. Did I say that</p> <p>8 correctly?</p> <p>9 A. You did, yes, sir.</p> <p>10 Q. And are they two separate divisions at</p> <p>11 TCME?</p> <p>12 A. They are two separate laboratory sections</p> <p>13 on the forensic laboratory services side of the</p> <p>14 office.</p> <p>15 Q. Okay. And what is your role for the</p> <p>16 forensic side, the forensic toxicology side?</p> <p>17 A. Yes. For forensic toxicology, I review</p> <p>18 and sign all of the data generated by the laboratory</p> <p>19 and then as well as review and sign the final report</p> <p>20 prior to release to the customer.</p> <p>21 Q. Does any report go out without your</p> <p>22 signature or by someone else's signature?</p> <p>23 A. If I'm going to be out of the office for</p> <p>24 two weeks for some reason, yes, my deputy would sign</p> <p>25 final reports in that instance. That doesn't happen</p>	<p style="text-align: right;">Page 21</p> <p>1 Q. You just give your results and they</p> <p>2 analyze it or read it?</p> <p>3 A. Yes, sir, that is correct. We submit the</p> <p>4 results to the individual pathologist, and what they</p> <p>5 do with them after that is outside of our purview.</p> <p>6 Q. Okay. So you don't have regular meetings,</p> <p>7 but let me ask you this. Have you ever had a</p> <p>8 medical examiner change his or her opinion on the</p> <p>9 cause of death after discussing the results with you</p> <p>10 or any other toxicologist?</p> <p>11 A. Not to my knowledge, no.</p> <p>12 Q. Okay. So while the results of the</p> <p>13 toxicology are certainly important, it's the medical</p> <p>14 examiner whose job it is to interpret it, correct?</p> <p>15 A. That is correct, yes, sir. They have the</p> <p>16 whole -- all of the pieces of the puzzle, and</p> <p>17 toxicology may just be one small piece.</p> <p>18 Q. And if you could tell us, indulge us, what</p> <p>19 exactly are all the pieces of the puzzle besides the</p> <p>20 toxicology portion?</p> <p>21 A. Oh, well, I will probably miss some, but</p> <p>22 there are the investigation records that they</p> <p>23 receive for a case. They have the physiological</p> <p>24 findings from the autopsy itself which only they</p> <p>25 know. They have any past medical history from</p>

<p style="text-align: right;">Page 22</p> <p>1 outside of the office that they may have access to. 2 There's histology, laboratory testing that they 3 would have access to. So all of those would be 4 individual pieces -- and I, again, may have missed 5 one -- that complete the picture. 6 Q. That's a very good list, Dr. Johnson. 7 Thank you. But at the same time, the toxicologist 8 has an important role to play. You would agree, 9 right? 10 A. We can, yes. Depending on case type, we 11 may have an important role. 12 Q. I mean, just to name a few things, you 13 guys are toxicologists who runs the test, who makes 14 sure it's calibrated correctly and there are good 15 quality controls in place, and you get defensible, 16 scientifically valid results that you can give to 17 the medical examiner, right? 18 A. We do. 19 MS. ABSTON: Objection, form. 20 A. I'm sorry. We do take care of all of 21 those things within the laboratory to ensure that 22 our results are accurate and done in an appropriate 23 way. 24 Q. Okay. My next question might be a little 25 broad, and I'm admitting that, but you seem to be</p>	<p style="text-align: right;">Page 24</p> <p>1 Q. Okay. Do you know what's entailed in 2 those standards? 3 A. I do not, no. 4 Q. Okay. And do you know if it is important 5 to specify the anatomical location for where the 6 sample was taken? 7 A. It is important. Then that goes to the 8 interpretation side. So when you're trying to 9 utilize the results generated by the laboratory, 10 sample site is -- can be important. 11 Q. Okay. And is this important because 12 femoral or leg blood from a peripheral compartment 13 may have a different drug or alcohol concentration 14 than the cardiac blood from the central compartment? 15 A. It can, yes, sir. 16 Q. Now, in the many years that you have 17 practiced, have you ever come to a conclusion the 18 level of opioids found in a decedent was a lethal or 19 toxic level? 20 A. No. That would be -- that all happens on 21 the pathology side. We do generate those numbers, 22 but we don't come to that conclusion, no. 23 Q. Now, does TCME serve just Tarrant County 24 or also some neighboring counties? 25 A. We have neighboring counties. So we're a</p>
<p style="text-align: right;">Page 23</p> <p>1 very knowledgeable so I'm going to ask you. 2 Do you have any opinion about the 3 reliability or the validity of certain tests that 4 are run on postmortem blood? 5 A. I would, yes. 6 Q. Give -- tell us. Tell us what your -- 7 MS. ABSTON: Objection, form. 8 A. Well, just in general, we -- we know from 9 our quality assurance and quality control program 10 that the results generated by the laboratory are 11 accurate, so what is in the blood or tissue 12 specimen, the amount or the identification of a 13 substance is accurate in every case. 14 The interpretation of those results in a 15 postmortem case is where there is a gray area. So 16 the results generated by the lab are accurate and 17 precise. What someone does with those results 18 outside of the laboratory is -- can vary depending 19 on the individual. 20 Q. Okay. Now, is there such a thing as a 21 National Association of Medical Examiners or NAME? 22 A. There is, yes. 23 Q. And do they publish standards for 24 performing forensic autopsies? 25 A. I believe so, yes.</p>	<p style="text-align: right;">Page 25</p> <p>1 medical examiner's district and there are four 2 counties within the district, Tarrant, Parker, 3 Denton, and Johnson counties. 4 Q. Thank you. Now, again, going back to your 5 experience on your LinkedIn page, it says that you 6 were a research chemist for the Federal Aviation 7 Administration. Do you see that? 8 A. Yes, sir. 9 Q. Okay. And what did that job entail? 10 A. So it's very -- it was very similar to 11 what I currently do. The only difference was the 12 decedents in those cases were all pilots, so 13 individuals that had died in aviation accidents. 14 The testing procedures and protocols were very 15 similar to what I do currently. Just the customer 16 base was different. 17 Q. Okay. And just looking at the dates, it 18 looked like you started a job even before you 19 finished your Ph.D. at the University of Oklahoma? 20 A. I did, yes, sir. I worked at the FAA 21 while finishing my degree, and the federal 22 government was very generous to allow me to do that, 23 so I'm grateful. 24 Q. Sometimes you have to thank the federal 25 government.</p>

<p style="text-align: right;">Page 26</p> <p>1 A. Every now and then, yes.</p> <p>2 Q. Every now and then. All right. Sounds 3 good.</p> <p>4 And how did you end up leaving that job 5 and going to the Tarrant County medical examiner's 6 office?</p> <p>7 A. So one of the drawbacks of the federal 8 government is no one ever leaves. So if I was ever 9 going to move up in my career, the only option was 10 to go somewhere else. All the people that I worked 11 with 12 years ago there are still there. So I never 12 would have advanced. And Tarrant County had an 13 opening for a chief toxicologist when my predecessor 14 retired, so I jumped at the opportunity.</p> <p>15 Q. Okay. I hope you didn't give up too 16 sizable a federal pension.</p> <p>17 A. No, it was okay.</p> <p>18 Q. All right. Let's now look at -- actually, 19 before we look at that, let me just ask you a 20 question. You're familiar with the TCME's 21 organizational structure, correct?</p> <p>22 A. Yes, sir.</p> <p>23 (Exhibit 3 marked)</p> <p>24 Q. All right. So let's look at Exhibit 3. 25 And as you look at it, let me first tell you why</p>	<p style="text-align: right;">Page 28</p> <p>1 the office. So just in general terms, yes.</p> <p>2 Q. Thank you, sir. And if you look at this 3 page, the one that we are looking at right now, it 4 appears that 2021 is the most recent report 5 available to download. Do you see that?</p> <p>6 A. It appears from this view, yes.</p> <p>7 Q. As you sit here today, do you know if 8 there is a 2022 report?</p> <p>9 A. I do not know, no.</p> <p>10 Q. Okay. Do you know if that report is in 11 the works?</p> <p>12 A. I also don't know.</p> <p>13 (Exhibit 4 marked)</p> <p>14 Q. Okay. All right. Let's move on to the 15 Exhibit 4 which is the annual report for 2020. Do 16 you see that now?</p> <p>17 A. I do, yes, sir.</p> <p>18 MR. SHERE: And if you could put that, 19 Gregg, on the screen, just the first page.</p> <p>20 CONCIERGE: It's loading. Bear with me 21 for a moment, please.</p> <p>22 MR. SHERE: No problem.</p> <p>23 Q. And since you are looking at it, 24 Dr. Johnson, in front of you, are you familiar with 25 this particular report?</p>
<p style="text-align: right;">Page 27</p> <p>1 there are two pages in the beginning.</p> <p>2 If you see, we took a snapshot of the 3 statistics -- statistical annual reports and we 4 couldn't get all that on the first page. I'm not a 5 technical person, but I think the second one is 6 landscape or whatever. So if you look at the second 7 page --</p> <p>8 MS. ABSTON: Before we move on, make sure 9 he has it out, but we're going to object to the use 10 of the screenshot as it cuts off part of the page 11 and it doesn't have a URL to it, but I'm going to 12 allow you to ask him questions about it.</p> <p>13 MR. SHERE: Thank you, Alex.</p> <p>14 Q. So let's move on to the next page which 15 is, I guess, the landscape version. And do you 16 see -- do you see this page now, Dr. Johnson?</p> <p>17 A. I do, yes, sir.</p> <p>18 Q. Okay. Now, looking at this page, it looks 19 like -- well, before we ask that, let me ask you 20 this.</p> <p>21 Are you familiar with the contents of 22 these reports, the annual statistical reports?</p> <p>23 A. In general, yes. I'm asked annually to 24 provide some toxicology statistics for the report. 25 I'm not involved in putting together the report for</p>	<p style="text-align: right;">Page 29</p> <p>1 A. I was asked to provide some information 2 for toxicology specifically. I don't know if I've 3 ever seen any of the rest of it, no.</p> <p>4 Q. Okay. And do you recall providing any 5 information relating to toxicology for this report?</p> <p>6 A. I do, yes.</p> <p>7 Q. Did you draft something or did you just 8 provide the data?</p> <p>9 A. Just the data.</p> <p>10 MR. SHERE: Okay. Now, this is where it 11 gets a little confusing. Gregg, you have to help 12 us. Keep going down, and I think it's page 28 on 13 this. You will see an organizational chart. I 14 think it's page 28. Let's get there.</p> <p>15 MS. ABSTON: Hold on.</p> <p>16 MR. SHERE: There you go. You're getting 17 close. Let's see. No, that doesn't look right.</p> <p>18 Yeah, that -- keep going up a little. There is a 19 photograph of a building and then it is the page 20 after that. Yeah, this is the page. Wonderful.</p> <p>21 Great job, Gregg.</p> <p>22 Q. All right. Now, are you seeing this in 23 front of you? And Dr. Johnson, have you found it in 24 your materials as well?</p> <p>25 A. I have, both, yes.</p>

<p style="text-align: right;">Page 30</p> <p>1 Q. Wonderful. Now, do you agree that what 2 you're seeing right now is the Tarrant County 3 medical examiner's office and forensic laboratories 4 organizational chart?</p> <p>5 A. From 2020, yes, sir.</p> <p>6 Q. All right. Yeah, that may have changed 7 now, and it probably has. Okay. Now, if you'll 8 look toward the far right on the fourth level, your 9 name shows up as chief toxicologist, Robert Johnson, 10 Ph.D. Do you see that?</p> <p>11 A. I do, yes, sir.</p> <p>12 Q. And do you see that there are 12 employees 13 listed under your name including senior 14 toxicologist, toxicologist, senior forensic chemist, 15 and forensic chemist?</p> <p>16 A. Yes, sir.</p> <p>17 Q. And if you would take just a quick look, 18 and we don't have to get into too much detail, but 19 do you think these people are all still working 20 there?</p> <p>21 A. They are not, no.</p> <p>22 Q. Okay. But at this time in 2020 when this 23 organizational chart was made, you were responsible 24 for managing and overseeing the work of each of the 25 individuals listed alongside yours, correct?</p>	<p style="text-align: right;">Page 32</p> <p>1 today as it was in 2020.</p> <p>2 Q. Now, on this chart, the big kahuna, the 3 big boss sitting at the top is the chief medical 4 examiner who in this case was Dr. Nizam Peerwani, 5 correct?</p> <p>6 A. Yes, sir, that is correct.</p> <p>7 Q. Now, Dr. Nizam Peerwani is no longer the 8 CME, correct?</p> <p>9 A. He is not, no, sir.</p> <p>10 Q. Do you know if he resigned?</p> <p>11 MS. ABSTON: Objection, form.</p> <p>12 A. I don't know. I was -- thought he 13 retired.</p> <p>14 Q. Do you have any reasons or understanding 15 of his leaving TCME?</p> <p>16 A. No. No, sir.</p> <p>17 MS. ABSTON: Objection, form.</p> <p>18 THE WITNESS: Sorry, Alex.</p> <p>19 A. I don't.</p> <p>20 Q. How was your working relationship with 21 Dr. Peerwani?</p> <p>22 A. Well, I didn't have direct contact very 23 often. He was way above my pay grade and oversaw an 24 extremely large number of people. I would answer 25 questions if he ever had any, but he didn't perform</p>
<p style="text-align: right;">Page 31</p> <p>1 A. Yes, sir, that is correct.</p> <p>2 Q. What are the primary duties and 3 responsibilities of the senior toxicologist and 4 toxicologist under your direction?</p> <p>5 A. So they are the people within the 6 laboratory that are responsible for generating the 7 data that is eventually associated with each case 8 that we -- that we work.</p> <p>9 Q. Okay. And what about the forensic 10 chemist?</p> <p>11 A. That is the seized drugs laboratory 12 section. So different laboratory. And they analyze 13 solid dose drug samples that are typically submitted 14 from law enforcement agencies that are collected at 15 the scene of a crime.</p> <p>16 Q. Now, as you mentioned, some of the people 17 referenced as working under you are no longer there, 18 correct?</p> <p>19 A. That's correct.</p> <p>20 Q. Do you know if this organizational chart 21 has also changed in its format, not the people 22 involved but just the format, since 2020, if you 23 know?</p> <p>24 A. Our -- our section has not changed in its 25 format. I think the basic structure is similar</p>	<p style="text-align: right;">Page 33</p> <p>1 a lot of autopsies towards the end of his career, so 2 we didn't have much contact.</p> <p>3 Q. Okay. And in your opinion, was 4 Dr. Peerwani a competent medical examiner?</p> <p>5 MS. ABSTON: Objection, form.</p> <p>6 A. Yes.</p> <p>7 Q. And you personally don't have any issues 8 or problems with Dr. Peerwani, correct?</p> <p>9 A. No, sir, I don't.</p> <p>10 Q. Okay. All right. So who is the current 11 chief medical examiner?</p> <p>12 A. Dr. Kendall Crowns.</p> <p>13 Q. And how long has Dr. Kendall Crowns served 14 as the CME of TCME?</p> <p>15 A. Oh, he's been there -- I would say he's 16 been there a little over a year now. I don't know 17 his exact hire date, but it's somewhere around a 18 year ago.</p> <p>19 Q. And how is your working relationship with 20 Dr. Crowns?</p> <p>21 A. Excellent. He's more involved within the 22 office, so we do see him much more often than we saw 23 Dr. Peerwani.</p> <p>24 Q. And does Dr. Crowns perform autopsies and 25 sign death certifications also?</p>

<p>1 A. He does, yes, sir.</p> <p>2 Q. And also performs other administrative 3 duties, correct?</p> <p>4 A. Many. I cannot imagine.</p> <p>5 Q. And judging from your testimony a few 6 minutes ago, I imagine that you consider Dr. Crowns 7 a competent medical examiner?</p> <p>8 A. Yes, sir, I do.</p> <p>9 Q. Okay. And you certainly have had no 10 issues or problems with Dr. Crowns, correct?</p> <p>11 MS. ABSTON: Objection, form.</p> <p>12 A. I have not, no, sir.</p> <p>13 Q. Okay. Now, at any time did you ever 14 report directly to the chief medical examiner?</p> <p>15 A. No, I have not.</p> <p>16 Q. Okay. Now, if you look at this chart 17 again, to your left, to the left of Dr. Peerwani 18 there is a Dr. Mark Krouse listed as the deputy 19 medical examiner. Do you see that?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Are you familiar with Dr. Mark Krouse?</p> <p>22 A. I am, yes.</p> <p>23 Q. And is Dr. Mark Krouse currently the 24 deputy medical examiner?</p> <p>25 A. He is not with the office any more or</p>	<p>Page 34</p> <p>1 Q. Okay. And she has held the office since 2 when?</p> <p>3 A. She started with the office not long after 4 me, so I would guess 11 years or so.</p> <p>5 Q. Okay. But how long has she been the 6 deputy medical examiner?</p> <p>7 A. Oh, okay. Sorry. I misunderstood your 8 question. She obtained that position not long after 9 Dr. Crowns was hired. I don't know the exact date.</p> <p>10 Q. Actually, as you correctly point out, she 11 is listed there below Dr. Crowns as the deputy ME, 12 right?</p> <p>13 A. Yes, she's been a deputy medical examiner 14 for 11 or so years at this point. She's now the 15 deputy chief medical examiner, so the deputy chief 16 to Dr. Crowns.</p> <p>17 Q. I got it. I got it. Okay. All right.</p> <p>18 Thank you, sir. As I said, some of these documents 19 look voluminous, but we're not going to spend too 20 much time on it. So let's move on to Exhibit 5, the 21 first page of Exhibit 5.</p> <p>22 (Exhibit 5 marked)</p> <p>23 MS. ABSTON: We're going to object to 24 the -- I mean, we're just going to note for the 25 record that this exhibit printed out for us is</p>
<p>1 either.</p> <p>2 Q. Okay. And do you know why Dr. Krouse left 3 the office?</p> <p>4 MS. ABSTON: Objection, form.</p> <p>5 A. I do not, no, sir.</p> <p>6 Q. Was his job terminated, if you know?</p> <p>7 A. I don't know the --</p> <p>8 MS. ABSTON: Objection, form.</p> <p>9 A. No, I don't know the correct terminology, 10 no, sir.</p> <p>11 Q. And do you know if he was -- Dr. Krouse 12 was asked to leave the CME's office due to his 13 performance, abilities, or conduct?</p> <p>14 MS. ABSTON: Objection, form.</p> <p>15 A. I do not know, no, sir.</p> <p>16 Q. So as you sit here today, just for 17 clarification, you don't know the circumstances 18 involving Dr. Krouse's leaving the deputy medical 19 examiner's position, correct?</p> <p>20 A. That is --</p> <p>21 MS. ABSTON: Objection, form.</p> <p>22 A. That is correct, yes, sir.</p> <p>23 Q. Okay. And who is the current deputy 24 medical examiner?</p> <p>25 A. Dr. Tasha Greenberg.</p>	<p>Page 35</p> <p>1 semi-cropped off. I don't know if this is an issue 2 for Dr. Johnson as well. And it also says that 3 there's supposed to be two pages and I only have 4 one, so --</p> <p>5 MR. SHERE: Oh, okay. Actually I only 6 have one here too, so it says 1 of 2 but we're just 7 going to talk about the first page. But that's 8 fine. Your objection is noted.</p> <p>9 We'll wait for Gregg to bring it up.</p> <p>10 Q. All right. Now, as chief toxicologist, 11 Dr. Johnson, you lead the TCME's chemistry and 12 toxicology laboratory, correct?</p> <p>13 A. Yes, sir, that is correct.</p> <p>14 Q. Okay. So looking at this exhibit, I want 15 you to look at the third sentence under "Forensic 16 Toxicology."</p> <p>17 MR. SHERE: And Gregg, you'll have to go 18 to that. Yeah. If you would enlarge it, the third 19 sentence that begins with, let's see, "The 20 toxicology laboratory provides." There you go.</p> <p>21 Q. So I'm going to read the third sentence in 22 the record, Dr. Johnson. "The toxicology laboratory 23 provides drug testing to assist medical examiners in 24 determining the cause and manner of death by 25 isolating, identifying and determining the</p>

<p style="text-align: right;">Page 38</p> <p>1 concentration of compounds in a collected specimen."</p> <p>2 Did I read that correctly?</p> <p>3 A. You did, yes, sir.</p> <p>4 Q. So walk us through the process a little</p> <p>5 bit, Dr. Johnson. Is -- how exactly does a</p> <p>6 toxicology laboratory assist the medical examiner's</p> <p>7 death investigation? What comes first?</p> <p>8 A. In our process what comes first, or do you</p> <p>9 mean --</p> <p>10 Q. Yes.</p> <p>11 A. -- within the office what comes first?</p> <p>12 Q. Actually, excellent point. Let's address</p> <p>13 both.</p> <p>14 A. So let's start with the office because</p> <p>15 that's the broader -- the broader answer.</p> <p>16 So in a postmortem case, someone passes</p> <p>17 away, they're transported to our office. A</p> <p>18 pathologist determines if an autopsy is required and</p> <p>19 then what type of autopsy is needed for the case.</p> <p>20 They may or may not request various laboratory</p> <p>21 services for that case, including histology,</p> <p>22 toxicology, or others depending on the case type.</p> <p>23 If they request toxicology testing for</p> <p>24 their case, we receive samples that were collected</p> <p>25 at the autopsy. Those are provided to us from the</p>	<p style="text-align: right;">Page 40</p> <p>1 don't -- you don't have to do anything, Gregg.</p> <p>2 Now let's look at the first and second</p> <p>3 sentences under the "Forensic Chemistry" handling</p> <p>4 and which reads as follows. And again, I'm going to</p> <p>5 read it into the record.</p> <p>6 "Forensic chemists analyze substances</p> <p>7 submitted by pathologists and other agencies. Drug</p> <p>8 types received commonly range from clandestine</p> <p>9 chemical substances to therapeutic or prescribed</p> <p>10 medications." Do you see that?</p> <p>11 A. Yes, sir.</p> <p>12 Q. Is that an accurate statement?</p> <p>13 A. It is, yes.</p> <p>14 Q. Now, the next sentence states, "Cocaine,</p> <p>15 heroin, and methamphetamine, all drugs of abuse,</p> <p>16 represent the most common products received for</p> <p>17 chemical assay." Do you see that?</p> <p>18 A. I do, yes.</p> <p>19 Q. And do you agree with that statement?</p> <p>20 A. I don't know statistically if that's</p> <p>21 accurate today. I'm sure it was accurate when that</p> <p>22 sentence was generated. Drug trends change over</p> <p>23 time though. So there have certainly been times</p> <p>24 when cocaine or heroin or methamphetamine were the</p> <p>25 most common submissions though.</p>
<p style="text-align: right;">Page 39</p> <p>1 evidence department within the office, and then we</p> <p>2 start our testing service within the laboratory.</p> <p>3 Q. I see. Now, does the medical examiner's</p> <p>4 office reach out to you or someone else at the</p> <p>5 toxicology laboratory for assistance with every</p> <p>6 death the TCME investigates?</p> <p>7 A. No, they do not.</p> <p>8 Q. Okay. Do they pick and choose?</p> <p>9 A. They decide based on -- actually I don't</p> <p>10 know how they decide, but they do choose when they</p> <p>11 want to request tox testing. We only know on the</p> <p>12 cases that they do make that request.</p> <p>13 Q. And does your office provide toxicology</p> <p>14 analyses for other agencies or any other party</p> <p>15 besides TCME?</p> <p>16 A. We do, yes. So we also do a significant</p> <p>17 amount of testing on living people, and that could</p> <p>18 be related to driving while intoxicated cases, could</p> <p>19 be related to drug-facilitated crimes or sexual</p> <p>20 assault cases. We do re-test work for defense</p> <p>21 attorneys who have had a sample tested at a</p> <p>22 different laboratory. So it's about 50/50 for us</p> <p>23 between postmortem and antemortem testing.</p> <p>24 Q. Okay. That's good to know. Okay. Now --</p> <p>25 and Gregg has this exhibit placed perfectly, so we</p>	<p style="text-align: right;">Page 41</p> <p>1 Q. And do you know as you sit here today, if</p> <p>2 we were to put it in the context of 2023,</p> <p>3 August 9th, would it change to what --</p> <p>4 MS. ABSTON: Objection, form.</p> <p>5 A. Currently our most common submission is</p> <p>6 methamphetamine, which is sent to us or submitted to</p> <p>7 us from law enforcement.</p> <p>8 Q. Does cocaine and heroin remain in the mix</p> <p>9 though today?</p> <p>10 A. They do.</p> <p>11 MS. ABSTON: Objection, form.</p> <p>12 A. Yes, sir, they do.</p> <p>13 Q. All right. Okay. So what is a chemical</p> <p>14 assay? First of all, am I pronouncing it correct?</p> <p>15 Is it assay or assay?</p> <p>16 A. Assay, yes. So --</p> <p>17 Q. What is a chemical assay?</p> <p>18 A. It's a test to determine the identity of a</p> <p>19 substance.</p> <p>20 Q. Okay. Now, whether it be methamphetamine</p> <p>21 or whether it be cocaine or heroin, these are all</p> <p>22 illicit substances to your knowledge, correct?</p> <p>23 MS. ABSTON: Objection, form.</p> <p>24 A. Yes, sir.</p> <p>25 Q. They're not available for sale at</p>

<p>1 pharmacies, correct?</p> <p>2 MS. ABSTON: Objection, form.</p> <p>3 A. They are not, that's correct.</p> <p>4 Q. And do you have any opinion as you sit</p> <p>5 here today as to why the most common substances</p> <p>6 received for analysis by your office are illicit</p> <p>7 substances and not prescribed medications?</p> <p>8 MS. ABSTON: Objection, form.</p> <p>9 A. No. We only test the things that are</p> <p>10 submitted to us from the customer, so I don't know</p> <p>11 what they're confiscating prior to that submission.</p> <p>12 Q. So you said that methamphetamine is</p> <p>13 probably the thing you see the most today. Do you</p> <p>14 know what would be the second most common today?</p> <p>15 MS. ABSTON: Objection, form.</p> <p>16 A. Currently the second most common is</p> <p>17 fentanyl.</p> <p>18 Q. Okay. And the third most common?</p> <p>19 A. Either heroin --</p> <p>20 MS. ABSTON: Objection, form.</p> <p>21 A. Heroin or cocaine. They're about equal.</p> <p>22 Q. Now, you mentioned fentanyl. Fentanyl, is</p> <p>23 it your understanding that fentanyl is a prescribed</p> <p>24 medication?</p> <p>25 MS. ABSTON: Objection, form.</p>	<p>Page 42</p> <p>1 Q. You can answer.</p> <p>2 A. Okay. Yes.</p> <p>3 Q. They are -- the vast majority is illicit</p> <p>4 fentanyl, correct?</p> <p>5 MS. ABSTON: Objection, form.</p> <p>6 A. Yes.</p> <p>7 (Exhibit 6 marked)</p> <p>8 MR. SHERE: All right. Let's move on to</p> <p>9 Exhibit 6, the first page, Gregg. Thank you, Gregg.</p> <p>10 If you could put the full -- yeah.</p> <p>11 Q. So this is an article from CBS News,</p> <p>12 correct?</p> <p>13 A. It appears to be, yes.</p> <p>14 Q. Okay. And if you look at the top, it</p> <p>15 says, "Fentanyl Deaths Soared in Tarrant County Last</p> <p>16 Year, Analysis Shows," correct?</p> <p>17 A. It does.</p> <p>18 Q. Okay. And the article was published on</p> <p>19 December 22nd, 2021, right?</p> <p>20 A. Yes, it looks like it.</p> <p>21 Q. Okay. This seems to validate your earlier</p> <p>22 statement that fentanyl has been a very prominent</p> <p>23 drug in your analyses, correct?</p> <p>24 A. It has been, yes.</p> <p>25 Q. All right. Let's look at the first</p>
<p>1 A. Can be, yes.</p> <p>2 Q. Is it also your understanding that there</p> <p>3 is another fentanyl that is an illicit substance?</p> <p>4 MS. ABSTON: Objection, form.</p> <p>5 A. Well, it's the same fentanyl. It just</p> <p>6 comes from a different source, yes.</p> <p>7 Q. Okay. And as you sit here today, do you</p> <p>8 know the fentanyl that you-all analyze, is that the</p> <p>9 licit fentanyl or the illicit fentanyl?</p> <p>10 MS. ABSTON: Objection, form.</p> <p>11 A. We -- it would be the illicit or the</p> <p>12 clandestine fentanyl that is by far the most common</p> <p>13 submission.</p> <p>14 Q. If you were to assign percentages,</p> <p>15 Dr. Johnson, would you -- can you assign a</p> <p>16 percentage to illicit fentanyl versus licit</p> <p>17 fentanyl in what you analyze?</p> <p>18 MS. ABSTON: Objection, form.</p> <p>19 A. No, it would just be a wild guess, so I</p> <p>20 would hate to do that on the record.</p> <p>21 Q. But your testimony as you sit here today</p> <p>22 is the vast majority of those are illicit fentanyl,</p> <p>23 correct?</p> <p>24 MS. ABSTON: Objection, form.</p> <p>25 Mischaracterizes testimony.</p>	<p>Page 43</p> <p>1 paragraph.</p> <p>2 MR. SHERE: And if you would go down,</p> <p>3 Gregg, just a little bit. Yeah. And it begins with</p> <p>4 "Despite receiving." Yeah, there you go. If you</p> <p>5 would enlarge it just a little bit more. Yeah.</p> <p>6 It's on that -- yeah, right there. Okay. Yeah, we</p> <p>7 can see it. All right.</p> <p>8 Q. So I'm again going to read this first</p> <p>9 paragraph. It says, "Despite receiving new</p> <p>10 attention in 2021 from families of victims, law</p> <p>11 enforcement and drug awareness organizations, county</p> <p>12 records showed as many as 123 deaths connected to</p> <p>13 fentanyl through November. That was nearly a</p> <p>14 30 percent increase over 2020."</p> <p>15 Do you see that language, Dr. Johnson?</p> <p>16 A. I do, yes, sir.</p> <p>17 Q. And do you agree with that language in the</p> <p>18 article?</p> <p>19 MS. ABSTON: Objection, form.</p> <p>20 A. I don't have any way to know whether</p> <p>21 that's accurate or not. I don't know how many</p> <p>22 deaths were attributed to fentanyl from our office</p> <p>23 or where they got those numbers.</p> <p>24 Q. That's a fair statement. But as you sit</p> <p>25 here today, do you have any reason to actively doubt</p>

12 (Pages 42 - 45)

<p>1 those numbers that are stated in the article?</p> <p>2 MS. ABSTON: Objection, form.</p> <p>3 A. No, I personally don't have any reason to</p> <p>4 doubt it, no.</p> <p>5 Q. Okay. And do you know if your office was</p> <p>6 approached by CBS News for any data relating to this</p> <p>7 article?</p> <p>8 A. I don't know, no, sir.</p> <p>9 Q. So the language they use -- and again,</p> <p>10 this is not a technical document, it's a news</p> <p>11 article -- it uses the term "connected," if you can</p> <p>12 see, "123 deaths connected to fentanyl," correct?</p> <p>13 A. It does say that, yes.</p> <p>14 Q. Okay. So let me ask you this. I know</p> <p>15 that the article says "connected to fentanyl," but</p> <p>16 in your experience as the chief toxicologist for the</p> <p>17 TCME reporting to the medical examiner's office, did</p> <p>18 you see a rise in the number of instances where</p> <p>19 fentanyl was at least present in the toxicology</p> <p>20 report during the time period in this article, which</p> <p>21 is 2020 and 2021?</p> <p>22 MS. ABSTON: Objection, form.</p> <p>23 A. Yes, we -- we had fentanyl on more</p> <p>24 toxicology reports in this time frame than we did in</p> <p>25 the years prior to this, yes, sir.</p>	<p>Page 46</p> <p>1 border. Do you see that?</p> <p>2 A. I do.</p> <p>3 Q. Do you have any reason to doubt that</p> <p>4 contention?</p> <p>5 MS. ABSTON: Objection, form.</p> <p>6 A. I do not because I don't know.</p> <p>7 Q. Also, it references a term "fake pills."</p> <p>8 Do you know -- do you have any idea what they meant</p> <p>9 by "fake pills"?</p> <p>10 A. Counterfeit pills that are made to look</p> <p>11 like something that is legitimate, yes.</p> <p>12 Q. Okay. As a toxicologist, when you find</p> <p>13 the presence of fentanyl in a decedent's system, are</p> <p>14 you able to define or estimate or connect whether</p> <p>15 the fentanyl came from a manufacturer or from a</p> <p>16 illegitimate source like a fake pill?</p> <p>17 A. No, we are not. Fentanyl is fentanyl</p> <p>18 regardless of the source.</p> <p>19 Q. Thank you, sir. Now -- okay. Let's move</p> <p>20 on. Let's move on to Exhibit 7.</p> <p>21 (Exhibit 7 marked)</p> <p>22 MR. SHERE: And that's fine, Gregg. We</p> <p>23 can focus on the top portion for the beginning.</p> <p>24 Q. So were you aware that the TCME website</p> <p>25 allows anyone to search through the medical</p>
<p>1 Q. Thank you, sir. And has that continued to</p> <p>2 the very present, if you know?</p> <p>3 MS. ABSTON: Objection, form.</p> <p>4 A. We continue to report numerous fentanyl</p> <p>5 positives, yes.</p> <p>6 MR. SHERE: Okay. All right. Gregg,</p> <p>7 let's move on to page 2 of this document. And if</p> <p>8 you would go to the fifth paragraph that begins with</p> <p>9 "The Drug Enforcement Administration." Right there,</p> <p>10 yeah. Do you see it?</p> <p>11 Q. Okay. I'm going to read this, and it says</p> <p>12 as follows. "The Drug Enforcement Administration</p> <p>13 increased seizures of the drug this year, in the</p> <p>14 form of fake pills, often coming into Texas over the</p> <p>15 Mexico border. It took in more than 11,000 pounds,</p> <p>16 more than double the two previous years combined."</p> <p>17 Do you see that language, Dr. Johnson?</p> <p>18 A. I do, yes, sir.</p> <p>19 Q. And as you sit here today, do you have any</p> <p>20 reason to doubt the veracity or authenticity of the</p> <p>21 language I just read to you?</p> <p>22 MS. ABSTON: Objection, form.</p> <p>23 A. No, I don't have any reason to doubt it.</p> <p>24 Q. So first, one of the contentions made here</p> <p>25 is that it's coming into Texas over the Mexican</p>	<p>Page 47</p> <p>1 examiner's case records for roughly the past 20</p> <p>2 years?</p> <p>3 A. No, I actually wasn't aware of that until</p> <p>4 I saw your exhibit.</p> <p>5 Q. All right. So this is a screenshot of the</p> <p>6 page from the TCME website where we searched the</p> <p>7 medical examiner's office case records for all four</p> <p>8 counties the TCME services that you mentioned</p> <p>9 earlier from January 1, 2020, to December 31, 2020,</p> <p>10 where the manner of death is listed as "accident."</p> <p>11 Do you see us doing that at the top?</p> <p>12 A. Yes, that's what it appears to be, yes.</p> <p>13 Q. Do you see the date range and "manner of</p> <p>14 death" field near the top of the page?</p> <p>15 A. I do.</p> <p>16 Q. Okay. All right. Do you have any reason</p> <p>17 to believe that this data from the TCME's website is</p> <p>18 accurate?</p> <p>19 A. No, I don't know who enters the data and I</p> <p>20 don't know where the data comes from, so I really</p> <p>21 wouldn't know.</p> <p>22 Q. So you wouldn't know one way either</p> <p>23 whether it's accurate or inaccurate, correct?</p> <p>24 A. Correct.</p> <p>25 Q. But given that it is from the TCME's, you</p>

<p style="text-align: right;">Page 50</p> <p>1 would assume, for the most part, that it is 2 accurate, correct?</p> <p>3 MS. ABSTON: Objection, form.</p> <p>4 A. No, I would make no assumptions. Again, I 5 have no idea who enters this or where the data comes 6 from.</p> <p>7 Q. That's a fair statement. Dr. Johnson, I 8 just don't want to compliment you for no reason, but 9 you're a very good witness. Anyway, all right. 10 Okay.</p> <p>11 So would you agree that most deaths 12 investigated by the medical examiner where he or she 13 finds that the cause of death was a drug overdose 14 would be classified as accident in the "manner of 15 death" field?</p> <p>16 MS. ABSTON: Objection, form.</p> <p>17 A. I don't know, no, sir.</p> <p>18 Q. Can you think of other categories that 19 could be listed in the "manner of death" field?</p> <p>20 MS. ABSTON: Objection, form.</p> <p>21 A. I know of other categories that are 22 possible, yes.</p> <p>23 Q. And what would those possible categories 24 be?</p> <p>25 MS. ABSTON: Objection, form.</p>	<p style="text-align: right;">Page 52</p> <p>1 the next page. Thank you, Gregg. And stay at the 2 top of the page.</p> <p>3 Q. This is some event that took place at 5126 4 Goodman Avenue. Do you see that the cause of death 5 is listed as, "Acute mixed drug intoxication 6 (cocaine, heroin, and methamphetamine)"? Do you see 7 that?</p> <p>8 A. I do, yes, sir.</p> <p>9 MS. ABSTON: Objection, form.</p> <p>10 Q. So in a case like this where the cause of 11 death is due to multiple substances, do you know how 12 the medical examiner typically draws the conclusion 13 based on the toxicology report of exactly what 14 caused the death?</p> <p>15 MS. ABSTON: Objection, form.</p> <p>16 A. I do not, no.</p> <p>17 Q. Would it typically be listed in this 18 format, "Acute mixed drug intoxication (cocaine, 19 heroin, and methamphetamine)"?</p> <p>20 MS. ABSTON: Objection, form.</p> <p>21 A. I don't know if that's typical or if that 22 varies by pathologist. No, I don't.</p> <p>23 Q. Okay. Now, if you look at the next page 24 and cause of death, and it's one, two, three, four, 25 five, six, seven, eight, nine, ten, eleven,</p>
<p style="text-align: right;">Page 51</p> <p>1 A. To my knowledge, suicide is a category, 2 homicide is a category, and probably natural, but I 3 don't know what they call those. Would be some sort 4 of category related to a natural death.</p> <p>5 Q. Okay. So here's an interesting. If you 6 look at the top under, you know, where it says 7 "manner of death, accident," right, at the top?</p> <p>8 A. It does, yes, sir.</p> <p>9 Q. Okay. But if you go five down line (sic) 10 in this -- in this document from the top, there's a 11 cause of death listed which in this case was blunt 12 force trauma, injuries. Do you see that?</p> <p>13 A. Not yet, but I'm looking. Oh, yes, I do, 14 yes, sir.</p> <p>15 Q. Yeah, one, two, three, four, five, six. 16 Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. As you sit here today, you know, in 19 your -- in your extensive professional opinion, is 20 there a difference between manner of death and cause 21 of death?</p> <p>22 MS. ABSTON: Objection, form.</p> <p>23 A. I don't know. That would be a question 24 for a pathologist.</p> <p>25 MR. SHERE: Okay. Okay. Let's move on to</p>	<p style="text-align: right;">Page 53</p> <p>1 twelve -- about 15 lines down, you look at the cause 2 of death and it says -- let me see where it is. It 3 says, "Complications of mixed drug intoxication." 4 Do you see that?</p> <p>5 A. I do, yes, sir.</p> <p>6 Q. Okay. Do you know the difference between 7 acute mixed drug intoxication versus complications 8 of mixed drug intoxication?</p> <p>9 A. No, I don't.</p> <p>10 Q. Okay. Now, you mentioned earlier that if 11 you are present at work, you sign every toxicology 12 report that goes to the medical examiner's office, 13 correct?</p> <p>14 A. Yes, sir, that is correct.</p> <p>15 Q. Okay. And would you say it's more common 16 than not to see presence of multiple substances as 17 the medical examiner's referenced in this example we 18 looked at?</p> <p>19 MS. ABSTON: Objection, form.</p> <p>20 A. Do you mean on our toxicology reports?</p> <p>21 Q. Yes.</p> <p>22 A. Yes, we more often than not see a -- it's 23 more common to have a case with more than one 24 positive compound, yes.</p> <p>25 Q. Okay. And as a toxicologist, can you</p>

<p>1 offer an opinion as to the concentration of 2 particular substances like heroin or cocaine in the 3 mixed drug interaction? 4 A. No. 5 MS. ABSTON: Objection, form. 6 A. So toxicologists can help the pathologist 7 understand what those individual substances can do 8 to a person, but related to a specific 9 concentration, no, no one has that information. 10 MR. SHERE: Dr. Johnson, we have been 11 going for an hour. Do you want to take a 12 five-minute break just to freshen up, if you need? 13 MS. ABSTON: Yeah, let's go ahead and take 14 a break. That's perfect. 15 MR. SHERE: All right. Good. So let's go 16 off the record, and we'll see you in five minutes. 17 Thank you, sir. 18 THE VIDEOGRAPHER: We're off the record at 19 11:04 a.m. 20 (Recess from 11:04 to 11:16) 21 THE VIDEOGRAPHER: We are back on the 22 record at 11:16 a.m. 23 MR. SHERE: Thank you, guys. Sorry, just 24 finishing up on a little candy bar. 25 ///</p>	<p>Page 54</p> <p>1 positive results for prescription opioids like 2 oxycodone or hydrocodone? 3 MS. ABSTON: Objection, form. 4 A. Very common. 5 Q. When you say "very common," it happens all 6 the time? 7 A. Yes, sir, it does. 8 Q. And has the instances of positive tests of 9 prescription opioids increased or decreased over 10 time, in your opinion? 11 A. As far as hydrocodone is concerned, it's 12 remained constant. We see a tremendous number of 13 tramadol cases. I don't have any specific numbers, 14 but those two specifically have not really changed 15 over time. 16 Q. Okay. And if you compare positive results 17 for prescription opioids versus illicit substances 18 like heroin, methamphetamine, or illicit fentanyl, 19 which do you think happens more? 20 MS. ABSTON: Objection, form. 21 A. Well, on the tox side from a blood 22 specimen, we don't know the source of any compound. 23 So we see hydrocodone and tramadol and fentanyl most 24 often. I don't know the source of any of those 25 three.</p>
<p>1 BY MR. SHERE: 2 Q. Okay. Just one follow-up question, 3 Dr. Johnson. You mentioned just a few minutes ago 4 that you believe that methamphetamine is the most 5 common drug on toxicology reports generated by your 6 lab, correct? 7 A. No. 8 MS. ABSTON: Objection, form. 9 Q. Go ahead. 10 A. During that portion of questioning, we 11 were talking about the seized drugs lab and the 12 solid dose substances that were submitted to the -- 13 to our drug chemistry or seized drugs laboratory. 14 Q. Okay. Okay. And in that, methamphetamine 15 was the most common? 16 MS. ABSTON: Objection, form. 17 A. Currently, in solid dose form, that's our 18 most frequent submission, yes. 19 Q. Okay. And this was followed by illicit 20 fentanyl, correct? 21 MS. ABSTON: Objection, form. 22 A. Fentanyl, yes, is probably number two. 23 Then it gets a little bit grayer after that. 24 Q. Okay. So let me ask you this. How common 25 is it for you today to see toxicology reports with</p>	<p>Page 55</p> <p>1 Q. Okay. Would you tend to find hydrocodone 2 more or fentanyl more? 3 A. They're pretty close to even at this 4 point. 5 Q. Okay. Now, Dr. Johnson, given your 6 leadership position with TCME, are you involved at 7 all with the drafting of the TCME budget? 8 A. I am not, no, sir. 9 Q. Okay. You have no responsibilities or 10 connection with the budget, budgetary process? 11 A. I request funds for my laboratory 12 sections. Those requests go through two layers 13 above me, and then at that level they're submitted 14 to the county. So I do make annual requests for 15 three different categories of funding. What happens 16 with those requests depends on a lot of steps above 17 me. 18 (Exhibit 8 marked) 19 Q. Okay. Let's look at Exhibit 8 now. And I 20 promise you, Dr. Johnson, this is one of those 21 exhibits where it's a lot more voluminous than we're 22 going to get into. We'll wait for Gregg to put 23 it -- the first picture on the screen. 24 CONCIERGE: It may take a moment to load. 25 Please be patient.</p>

<p style="text-align: right;">Page 58</p> <p>1 MR. SHERE: Sure. Thank you, sir.</p> <p>2 Q. All right. If you'll look at this</p> <p>3 exhibit, Dr. Johnson, do you see that this is the</p> <p>4 2023 approved budget of the Tarrant County medical</p> <p>5 examiner's office?</p> <p>6 A. Yes, sir, I do.</p> <p>7 Q. And it's prepared by the Tarrant County</p> <p>8 budget and risk management department, correct?</p> <p>9 A. That appears to be the case, yes.</p> <p>10 Q. And it is dated September 13, 2022,</p> <p>11 correct?</p> <p>12 A. Yes, sir.</p> <p>13 MR. SHERE: All right. Okay. Gregg, this</p> <p>14 is where you're going to earn your keep today.</p> <p>15 Let's go to page 185 of this document. And the</p> <p>16 heading will be "Medical Examiner." Oh, you're very</p> <p>17 close to it, yeah. There you go. Wonderful. Great</p> <p>18 job. Okay. Okay.</p> <p>19 MS. ABSTON: Dr. Johnson, have you found</p> <p>20 it?</p> <p>21 THE WITNESS: I have, yes, ma'am.</p> <p>22 MS. ABSTON: Okay.</p> <p>23 Q. Very good. Okay. This -- the page that</p> <p>24 you're seeing, page 185, is the medical examiner --</p> <p>25 let's see. This is the Tarrant County medical</p>	<p style="text-align: right;">Page 60</p> <p>1 employees prior to -- I guess prior to this</p> <p>2 announcement in the budget.</p> <p>3 Q. Okay. And do you know at what time did</p> <p>4 the Tarrant County medical examiners referenced here</p> <p>5 became full-time employees?</p> <p>6 A. I don't, no, sir.</p> <p>7 Q. Okay. Probably around the time that this</p> <p>8 report came out?</p> <p>9 MS. ABSTON: Objection, form.</p> <p>10 A. That is a possibility, or it could have</p> <p>11 happened before that. I really don't know.</p> <p>12 Q. Okay. Looking further down, you see a</p> <p>13 section called "Division Objectives" on the same</p> <p>14 page?</p> <p>15 A. Yes, sir.</p> <p>16 Q. Okay. Now, if you look at the next page,</p> <p>17 which is -- okay. Right there at the top, let's</p> <p>18 see. The first objective listed is, "To perform all</p> <p>19 forensic laboratory testing as part of a formal</p> <p>20 inquest including identification of the decedent,</p> <p>21 histology, toxicology, and specialized chemistry."</p> <p>22 Did I read that correctly?</p> <p>23 A. You did, yes.</p> <p>24 Q. Do you have any reason to doubt that</p> <p>25 bullet point?</p>
<p style="text-align: right;">Page 59</p> <p>1 examiner's section of the budget, correct?</p> <p>2 A. It does appear to be, yes, sir.</p> <p>3 Q. Okay. And if you go to the bottom of this</p> <p>4 first page, you'll see a title called "Recent</p> <p>5 Accomplishments." Do you see that?</p> <p>6 A. I do.</p> <p>7 Q. Now, if you go to the next page, you will</p> <p>8 see -- and now let me tell you exactly where you'll</p> <p>9 see that. It's three bullet points from the bottom.</p> <p>10 "Transition medical examiners to full-time Tarrant</p> <p>11 County employees." Do you see that?</p> <p>12 A. I do, yes.</p> <p>13 Q. Okay. First of all, do you agree with</p> <p>14 that bullet point?</p> <p>15 MS. ABSTON: Objection, form.</p> <p>16 A. I don't know. So I don't -- I assume</p> <p>17 they're talking about the pathologists maybe. That</p> <p>18 really didn't have anything to do with my</p> <p>19 laboratory.</p> <p>20 Q. That's -- and that's perfectly fair.</p> <p>21 But my question to you is, do you know if</p> <p>22 Tarrant County medical examiners were not full-time</p> <p>23 employees at any point?</p> <p>24 MS. ABSTON: Objection, form.</p> <p>25 A. To my knowledge, they were contract</p>	<p style="text-align: right;">Page 61</p> <p>1 A. No, I have no reason to doubt it.</p> <p>2 Q. Okay. And let me ask you this. As chief</p> <p>3 toxicologist, are you the person primarily</p> <p>4 responsible for ensuring that this objective is met?</p> <p>5 A. No. So I would be 25 percent of this</p> <p>6 objective.</p> <p>7 Q. Wonderful. Who would be 75 percent?</p> <p>8 A. Oh, the histologist, the laboratory that</p> <p>9 they send specialized chemistries to, and then the</p> <p>10 pathologist who is really in charge of the whole</p> <p>11 bullet.</p> <p>12 Q. Okay. And I know we've all watched crime</p> <p>13 dramas on TV, but what exactly is a formal inquest?</p> <p>14 A. That is a very fancy phrase for an</p> <p>15 autopsy.</p> <p>16 Q. Okay. So that is basically an autopsy.</p> <p>17 A. Yes, sir.</p> <p>18 Q. And do you think that as far as your</p> <p>19 understanding goes that the lab has met this</p> <p>20 objective to perform all forensic laboratory testing</p> <p>21 as part of a formal inquest?</p> <p>22 A. On the -- specifically related to</p> <p>23 toxicology, yes. When requested, we -- we are</p> <p>24 comprehensive in nature and we are looking for</p> <p>25 anything and everything that may be there.</p>

<p style="text-align: right;">Page 62</p> <p>1 Q. Very good. And are you aware of anytime 2 the laboratory did not meet this objective?</p> <p>3 A. Not toxicology, no.</p> <p>4 Q. Okay. For the rest you don't know?</p> <p>5 A. That's correct. I would not have any 6 knowledge about the other three segments.</p> <p>7 Q. All right. Okay. Now I want to draw your 8 attention --</p> <p>9 MR. SHERE: And Gregg, you don't have to 10 mess with the document. It's perfect the way it is.</p> <p>11 Q. The "Key Performance Indicators," do you 12 see that at the -- more at the bottom of the page?</p> <p>13 A. I do, yes, sir.</p> <p>14 Q. So looking at that, it looks like the 15 number of toxicology cases in 2021 were 4,903, and 16 the estimated number of toxicology cases for 2022 17 and 2023 are 5,000 and 5,200, correct?</p> <p>18 A. Yes, sir.</p> <p>19 Q. As chief toxicologist, did you provide 20 this data to the medical examiner's office?</p> <p>21 A. I did not, no. That would have been the 22 technical administrative director putting these 23 numbers together.</p> <p>24 Q. Okay. But the chart indicates that the 25 number of toxicology cases are projected to increase</p>	<p style="text-align: right;">Page 64</p> <p>1 involved in the budgetary process -- but anyway, 2 skip that. Let's move on to page 188, which is the 3 next page.</p> <p>4 MR. SHERE: Thank you, Gregg.</p> <p>5 Q. Okay. All right. So first, near the top 6 of the page it says that the total approved budget 7 for 2023 was \$16,050,129, correct?</p> <p>8 A. Yes, sir, that's what it says.</p> <p>9 Q. And it looks like the budget went up by 10 about 10 percent over the previous year, 2022, 11 correct?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Also, if you look at the chart, it appears 14 that 85 percent of total budget is for personal 15 costs, correct?</p> <p>16 A. That's what it says, yes.</p> <p>17 Q. The next largest budget category is 18 "Other" at 8.92 percent, correct?</p> <p>19 A. Yes.</p> <p>20 Q. As you sit here today, do you have any 21 idea what would be included in that category?</p> <p>22 A. I do not. I was wondering that myself as 23 I looked at the pie chart.</p> <p>24 Q. Okay. So as you sit here today, you have 25 no idea what that "Other" category is?</p>
<p style="text-align: right;">Page 63</p> <p>1 in 2022 and 2023, correct?</p> <p>2 A. Yes, sir, that is correct.</p> <p>3 Q. And since your tenure with TCME which goes 4 back, as we discussed earlier, for 12 years, did you 5 ever feel the laboratory did not have the personnel 6 or resources to handle the number of cases it was 7 assigned?</p> <p>8 A. Yes, sir. That is currently accurate and 9 has been for about five years now.</p> <p>10 Q. Okay. So let's begin with that. Was it 11 not accurate more than five years ago?</p> <p>12 A. No, we were -- we had sufficient staff 13 when I started to complete all testing in every case 14 without any real concern. Our caseload has nearly 15 doubled in those 12 years, and our number of staff 16 has only increased by one, I think. So we're -- 17 we're way behind where we should be as far as 18 staffing is concerned.</p> <p>19 Q. Okay. So ideally, how much would you like 20 to see your staffing increase by?</p> <p>21 A. If we added five additional toxicologists, 22 we would be right around the average for 23 laboratories around the country that do the number 24 of cases that we work.</p> <p>25 Q. Thank you, sir. Now, you said you weren't</p>	<p style="text-align: right;">Page 65</p> <p>1 A. I don't, no, sir.</p> <p>2 Q. Okay. And I know you're not very involved 3 in the budgetary process, but do you know if the 4 TCME or the chemistry and toxicology laboratory 5 specifically receives funding outside the funding it 6 receives from the county?</p> <p>7 A. No. Our budget for supplies and 8 consumables and capital equipment and education and 9 training all comes from the county.</p> <p>10 Q. Thank you, sir. Now, in addition to your 11 work with the TCME as chief toxicologist, you have 12 authored or coauthored publications related to the 13 field of toxicology, correct?</p> <p>14 A. I have, yes, sir.</p> <p>15 MR. SHERE: Okay. So let's look at 16 Exhibit 9 which is the last exhibit, folks. Gregg, 17 your work, at least for me, is almost done.</p> <p>18 (Exhibit 9 marked)</p> <p>19 Q. Okay. And I see by the date on this, this 20 is when you were with the federal government, 21 correct?</p> <p>22 A. Yes, sir, it was.</p> <p>23 Q. Specifically the Federal Aviation 24 Administration, correct?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">Page 66</p> <p>1 Q. Okay. And was this report sponsored by 2 the FAA? 3 A. It was, yes, sir. 4 Q. Okay. Do you remember, broadly speaking, 5 what this report is about? I know it's 13 years 6 old, but -- 7 A. I do in general terms, yes. 8 Q. And what was it generally about? 9 A. So it's kind of a unique situation to an 10 aviation accident because when a plane crashes into 11 the ground at high speed, there's often not a wide 12 selection of tissues available for testing. So we 13 didn't get blood very often like we do currently at 14 the medical examiner's office. 15 So the question that was frequently asked 16 is, if you obtain a concentration of a drug in a 17 tissue, can you relate that in any way to what the 18 blood concentration may have been at the time of 19 death. So we did a lot of distribution studies for 20 various types of compounds to determine if you could 21 estimate a blood concentration from a tissue 22 concentration from the laboratory. 23 Q. I see. Thank you. And your recollection 24 is impeccable. Okay. So I see three other names 25 listed under the title. There's Sabra Botch, Arvind</p>	<p style="text-align: right;">Page 68</p> <p>1 decedent's body? 2 A. It is, in various fluids and tissues from 3 the body, yes. 4 Q. Okay. And were there any specific 5 concerns relating accurately measuring the 6 distribution of oxycodone or any other substance in 7 the decedent's body that this report was supposed to 8 address? 9 A. Yes. It was specifically meant to address 10 the question of can you estimate a blood 11 concentration from a tissue concentration when 12 there's no blood available for testing. So that was 13 the goal. We didn't believe that was possible, but 14 we wanted to make sure that we were accurate, so we 15 began this study. 16 Q. And the sentence that I read out to you 17 today, the second sentence from the introduction, is 18 that still true today? 19 A. There are a few publications that have 20 done -- have looked at the distribution of oxycodone 21 and other drugs in fluids and tissues. So I don't 22 know that we were the first, and we certainly 23 haven't been the last over the last 13 years. But 24 at the time, there weren't many to look at or 25 reference.</p>
<p style="text-align: right;">Page 67</p> <p>1 Chaturvedi, and Russell Lewis, correct? 2 A. Yes, sir. 3 Q. Did they also coauthor this report? 4 A. They did, yes. 5 Q. And were you the lead drafter of this 6 report? 7 A. I was not. That was Sabra. 8 Q. Sabra. And you were number two on the 9 list, right? 10 A. Yes, sir. 11 MR. SHERE: All right. Okay. Let's turn 12 to page 3 of this report. Right there. Thank you, 13 sir. Thank you, Gregg. 14 Q. Okay. The second sentence in the 15 "Introduction" section, okay, it states, "The 16 postmortem distribution of oxycodone has not been 17 fully characterized, particularly at sublethal 18 levels." Okay? Do you see that? 19 A. I do. 20 Q. Okay. Now, oxycodone, of course, is a 21 prescription opioid, correct? 22 A. It is. 23 Q. All right. Okay. So when it's talking 24 about postmortem distribution of oxycodone, is that 25 referring to the concentration of oxycodone in the</p>	<p style="text-align: right;">Page 69</p> <p>1 Q. Thank you, sir. And Dr. Johnson, do you 2 know if there was something particular about 3 oxycodone, either from a forensic chemistry or 4 toxicological standpoint, that made it difficult to 5 measure the postmortem distribution of that drug? 6 A. No, nothing specific to oxycodone. We did 7 encounter it frequently, so the question was 8 consistent from investigators, but we certainly did 9 the same work on other drugs. It wasn't specific to 10 oxycodone. 11 Q. Okay. Now, you went to work for the TCME 12 a year after this was published, correct? 13 A. I did, yes, April of 2011. 14 Q. Okay. And do you know if during your 15 tenure with TCME, did any other toxicologist you 16 worked with or you yourself express concerns about 17 whether the lab could accurately measure the 18 distribution of oxycodone in postmortem toxicology 19 reports? 20 MS. ABSTON: Objection, form. 21 A. No. Completely different question at the 22 medical examiner's office than at the FAA because of 23 the specimens available for testing. We very 24 frequently have blood available for testing at the 25 ME's office, where it was not very common dealing</p>

<p style="text-align: right;">Page 70</p> <p>1 with plane crashes.</p> <p>2 Q. And the reason for that is self-evident,</p> <p>3 that in one case it's an airplane crash, the other</p> <p>4 is a decedent who's --</p> <p>5 A. Yes, sir, that is correct.</p> <p>6 Q. All right. Okay. And then on the same</p> <p>7 page under "Conclusion," which is at the bottom of</p> <p>8 the page, it says that, "The blood concentrations</p> <p>9 found indicate that the oxycodone in these cases</p> <p>10 ranged from therapeutic to above therapeutic, but</p> <p>11 all were below lethal levels." Do you see that?</p> <p>12 A. I do.</p> <p>13 Q. And of course that statement is accurate,</p> <p>14 correct?</p> <p>15 A. I don't remember the -- all the</p> <p>16 concentrations specifically, but I hope so.</p> <p>17 Q. Okay. And the next line says that,</p> <p>18 "Tissue/fluid to blood distribution coefficients</p> <p>19 were found to have large coefficients of variation</p> <p>20 (ranging from 26 to 188 (sic) percent), thereby</p> <p>21 rendering them unreliable for estimating a blood</p> <p>22 oxycodone concentration from a tissue value when no</p> <p>23 blood is available for analysis."</p> <p>24 Do you see that?</p> <p>25 A. I do, yes.</p>	<p style="text-align: right;">Page 72</p> <p>1 wouldn't know what her responsibilities were as the</p> <p>2 records manager, correct?</p> <p>3 A. That's correct, I do not know.</p> <p>4 Q. Now, Ms. Nunez recently gave a deposition</p> <p>5 that was undertaken by Albertsons' counsel, who is</p> <p>6 also present here. And we don't have the transcript</p> <p>7 or the report, but I'm going to ask you to assume</p> <p>8 some questions I'm going to ask you and just see</p> <p>9 what you think about it.</p> <p>10 Ms. Nunez says -- and I want you to assume</p> <p>11 that this is true -- that in her role with TCME she</p> <p>12 codes the medical examiner cases with manner and</p> <p>13 cause of death.</p> <p>14 Do you recall if we discussed manner and</p> <p>15 cause of death for --</p> <p>16 MS. ABSTON: I'm going to -- I'm going to</p> <p>17 object here to a lot of different aspects of this</p> <p>18 line of questioning, but are you asking the witness</p> <p>19 about another witness's deposition without showing</p> <p>20 any sort of testimony and asking for him to give an</p> <p>21 opinion about that, about your summary of her</p> <p>22 testimony?</p> <p>23 MR. SHERE: Ms. Abston, that was my plan.</p> <p>24 MS. ABSTON: Okay. Because I don't -- I'm</p> <p>25 going to have a problem with that, but unless you</p>
<p style="text-align: right;">Page 71</p> <p>1 Q. And do you have any reason to doubt that</p> <p>2 statement?</p> <p>3 A. No. That was the hypothesis going in. We</p> <p>4 just needed data to show that we were right when we</p> <p>5 told people that you cannot do that.</p> <p>6 Q. Now, again, as we discussed, this report</p> <p>7 is about 13 years ago, but do you know of any</p> <p>8 advances in technology that makes a more accurate</p> <p>9 analysis of the concentration of oxycodone in body</p> <p>10 tissue possible today?</p> <p>11 A. No. There are certainly different</p> <p>12 instrumentation platforms available to do that</p> <p>13 testing, but the accuracy of the test has not</p> <p>14 changed over these number of years.</p> <p>15 Q. All right. We can put away the exhibits</p> <p>16 now. I just have a few more questions to ask you.</p> <p>17 By the way, Dr. Johnson, are you familiar</p> <p>18 with an employee at the TCME's office named Lisa</p> <p>19 Garcia Nunez, a records manager at TCME?</p> <p>20 A. I was going to say that I believe she's</p> <p>21 the records custodian, yes.</p> <p>22 Q. Okay. Did you ever have the opportunity</p> <p>23 to work with Mr. Nunez?</p> <p>24 A. Ms., and no.</p> <p>25 Q. Okay. And as you sit here today, you</p>	<p style="text-align: right;">Page 73</p> <p>1 have the transcript in front of you and you want to</p> <p>2 ask him. I would still have a problem with that too</p> <p>3 because he's already established that he doesn't do</p> <p>4 any work with this person, so --</p> <p>5 MR. SHERE: Actually, I'll tell you what.</p> <p>6 I'll let you have the argument on that. I'll move</p> <p>7 on.</p> <p>8 MS. ABSTON: Okay. Thank you.</p> <p>9 MR. SHERE: Her testimony speaks for</p> <p>10 itself. All right. Okay.</p> <p>11 Q. Now, Dr. Johnson, as a Ph.D. in analytic</p> <p>12 chemistry, do you have an understanding of the term</p> <p>13 "epidemic"?</p> <p>14 A. Not -- that had nothing to do with my</p> <p>15 education or training, no. As a layperson, I think</p> <p>16 I know what an epidemic is.</p> <p>17 Q. Okay. And what is your understanding of</p> <p>18 what is an epidemic?</p> <p>19 A. Some sort of crisis related to an issue</p> <p>20 that's -- I don't know how to phrase it, but it's</p> <p>21 bigger than -- it's not random or rare. It's more</p> <p>22 constant and consistent than that.</p> <p>23 Q. Okay. And are epidemics typically related</p> <p>24 to a communicable disease?</p> <p>25 MS. ABSTON: Objection, form.</p>

<p style="text-align: right;">Page 74</p> <p>1 A. I don't know.</p> <p>2 Q. All right. Now, as you sit here today, do 3 you believe that Tarrant County is currently 4 experiencing an opioid epidemic?</p> <p>5 MS. ABSTON: Objection, form.</p> <p>6 A. Again, I don't know. That's outside of 7 what I -- what I do.</p> <p>8 Q. So as you sit here today or if you're 9 asked to testify at trial, you will have no opinions 10 on whether Tarrant County is currently experiencing 11 an opioid epidemic, correct?</p> <p>12 MS. ABSTON: Objection, form.</p> <p>13 A. That is correct. I would defer to some 14 sort of epidemiologist or public health expert.</p> <p>15 Q. All right. Very good. And as I said 16 earlier, you're a very careful and very good 17 witness, so let's just roll with that. Okay. So 18 let me ask you a slightly broader question.</p> <p>19 Do you believe that Tarrant County, Texas, 20 is currently or has ever experienced an opioid 21 crisis?</p> <p>22 A. Again, I would answer the same way and 23 simply say I don't know. I, first of all, don't 24 know the difference between crisis and epidemic, so 25 at the base of the question, I'm unfamiliar.</p>	<p style="text-align: right;">Page 76</p> <p>1 Q. Okay. Now, do you know that Kroger and 2 Albertsons are two pharmacies that have been named 3 in this lawsuit by Tarrant County?</p> <p>4 A. No. I'm trying to remember reading 5 through the deposition notice, and I don't remember 6 seeing those names.</p> <p>7 Q. Okay, which is fine, which is perfectly 8 fine. So as you sit here today, again, because you 9 clarified at the very beginning of your deposition, 10 you don't know what the allegations made in this 11 case are or the allegations specifically against 12 Kroger and Albertsons, correct?</p> <p>13 A. Correct.</p> <p>14 Q. Okay. Have you ever personally shopped at 15 a Kroger?</p> <p>16 A. I'm sure I have. I would not be able to 17 tell you how many times or when, but I bet I've been 18 in a Kroger at some point, yes, sir.</p> <p>19 Q. And what about Albertsons?</p> <p>20 A. I don't know about Albertsons. We have a 21 Kroger much closer to our house than we have an 22 Albertsons.</p> <p>23 Q. Okay. And do you have any opinions about 24 Kroger?</p> <p>25 A. I do not.</p>
<p style="text-align: right;">Page 75</p> <p>1 Q. Excellent. And given your answer, is it 2 fair to say that as you sit here today or if you are 3 asked to testify at trial, you will not offer any 4 opinions on whether Tarrant County is currently or 5 has ever experienced an opioid crisis, correct?</p> <p>6 MS. ABSTON: Objection, form.</p> <p>7 A. That would be -- that is how I would 8 answer the question, correct.</p> <p>9 Q. All right. Next question. As you sit 10 here today, do you believe that pharmacies are in 11 any way responsible for the opioid crisis or opioid 12 epidemic in Tarrant County?</p> <p>13 MS. ABSTON: Objection, form.</p> <p>14 A. I don't know.</p> <p>15 Q. Okay. So as you sit here today, you have 16 no knowledge as to whether pharmacies are 17 responsible for any opioid-related problem in 18 Tarrant County, correct?</p> <p>19 A. That is correct. I don't know.</p> <p>20 Q. Okay. And again, if you were asked to 21 testify at trial, you will not offer any opinions on 22 whether a pharmacy is responsible for any opioid 23 problem in Tarrant County, Texas, correct?</p> <p>24 MS. ABSTON: Objection, form.</p> <p>25 A. Yes, sir.</p>	<p style="text-align: right;">Page 77</p> <p>1 Q. All right. Have you ever had a 2 prescription filled at a Kroger or a Albertsons?</p> <p>3 MS. ABSTON: Objection, form. We're not 4 going to get into talking about HIPAA-protected, 5 personal health information here. So I'm going to 6 object to this entire line of questioning and we're 7 not answering questions about personal, 8 HIPAA-protected health information.</p> <p>9 Q. Okay. So, you know, we discussed the role 10 of pharmacies in any opioid-related problem in 11 Tarrant County, and you said that as you sit here 12 today you have no opinions about that fact and you 13 would not offer any opinion at trial, correct?</p> <p>14 MS. ABSTON: Objection, form.</p> <p>15 A. Correct, that's what I said.</p> <p>16 Q. And the same would apply if anyone asked 17 you any questions about Kroger or Albertsons and 18 their role in the opioid problem in Tarrant County, 19 that question at trial, you would have no opinions, 20 correct?</p> <p>21 MS. ABSTON: Objection, form.</p> <p>22 A. That is correct.</p> <p>23 Q. And has anyone at the medical examiner's 24 office told you that an opioid dispensed by Kroger 25 or Albertsons was a cause of death in Tarrant</p>

1 County, Texas? 2 MS. ABSTON: Objection, form. 3 A. No. 4 MR. SHERE: Dr. Johnson, I really thank 5 you for your time and attention and the detail with 6 which you answered these questions. I have no 7 further questions at this point. I would now pass 8 it on to Alexandra for Albertsons and then to Alex, 9 but my job at the moment is done. And again, I 10 thank you, sir. 11 THE WITNESS: I thank you. 12 E X A M I N A T I O N 13 BY MS. LAGOS: 14 Q. Dr. Johnson, it's nice to meet you. I'm 15 Alexandra Lagos, counsel for Albertsons. 16 Moments ago in your deposition, you 17 testified that you have no opinions about Kroger. 18 I just want to confirm, you also have no -- do you 19 agree that you have no opinions -- let me rephrase 20 this question. Do you have any opinions about 21 Albertsons? 22 MS. ABSTON: Objection, form. 23 A. No, ma'am, I do not. 24 MS. LAGOS: Okay. I don't think I have 25 any further questions for you at this time,	Page 78 1 the record at 11:52 a.m. 2 3 (Deposition concluded at 11:52 a.m. CDT) 4 -oOo- 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25
Page 79 1 Dr. Johnson. Thank you very much for your time. I 2 will now pass the witness to plaintiff. 3 MS. ABSTON: Okay. Do y'all mind giving 4 us five minutes? 5 MS. LAGOS: Absolutely. 6 MR. SHERE: No, no problem at all. 7 MS. LAGOS: Take five minutes, go off 8 record and take a break. Thanks. 9 THE VIDEOGRAPHER: We're off the record at 10 11:45 a.m. 11 (Recess from 11:45 to 11:51) 12 THE VIDEOGRAPHER: We're back on the 13 record at 11:51 a.m. 14 MS. ABSTON: Okay. And plaintiffs will 15 not have any questions today or any redirect, but 16 Dr. Johnson, we want to thank you not only for your 17 time today but for your service to Tarrant County 18 and all the citizens of Tarrant County and the 19 community. We really appreciate you and we wish you 20 the best. 21 THE WITNESS: Thank you, guys. 22 MR. SHERE: Same from us too. 23 Hey, Karen, do you have our typical 24 request from Kroger? 25 THE VIDEOGRAPHER: One moment. We're off	Page 81 1 IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO 2 EASTERN DIVISION 3 IN RE NATIONAL PRESCRIPTION) OPIATE LITIGATION) 4) MDL No. 2804 5) 5 This Document Relates To:) Case No. 17-md-2804 Track Nine: Tarrant County,) 6 Texas) 7 (Case No. 1:18-op-45274-DAP)) 8 8 REPORTER'S CERTIFICATE 9 REMOTE VIDEOTAPED DEPOSITION OF DR. ROBERT JOHNSON 10 AUGUST 9, 2023 11 I, KAREN L. SHELTON, a Certified Shorthand 12 Reporter in and for the State of Texas, hereby 13 certify to the following: 14 That the witness, DR. ROBERT JOHNSON, was 15 duly sworn by the officer and that the transcript of 16 the oral deposition is a true record of the 17 testimony given by the witness; 18 I further certify that pursuant to FRCP 19 Rule 30(e) that the signature by the deponent: 20 was requested by the deponent or a 21 party before the completion of the deposition and is 22 to be returned within 30 days from date of receipt 23 of the transcript. If returned, the attached Errata 24 contains any changes and the reasons therefor; 25 _X_ was not requested by the deponent or a

<p>1 party before the completion of the deposition. 2 I further certify that I am neither 3 counsel for, related to, nor employed by any of the 4 parties or attorneys in the action in which this 5 proceeding was taken, and further that I am not 6 financially or otherwise interested in the outcome 7 of the action.</p> <p>8</p> <p>9 Certified to by me this 15th day of 10 August, 2023.</p> <p>11</p> <p>12</p> <p>13</p> <p>14 <i>Karen L. Shelton</i> 15 Karen L. Shelton, CSK, KDR, CRR 16 TX CSR 7050 Exp: 10/31/23 17 Veritext Legal Solutions 18 Firm No. 571 19 300 Throckmorton Street 20 Suite 1600 21 Fort Worth, Texas 76102 22 (817) 336-3042 (800) 336-4000</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 82</p> <p>1 DEPOSITION REVIEW 2 CERTIFICATION OF WITNESS</p> <p>3 ASSIGNMENT REFERENCE NO: 6024054 4 CASE NAME: National Prescription Opiate Litigation - Track 9 (Tarrant County) v. 5 DATE OF DEPOSITION: 8/9/2023 6 WITNESS' NAME: Dr. Robert Johnson 7 In accordance with the Rules of Civil Procedure, I have read the entire transcript of my testimony or it has been read to me. 8 I have made no changes to the testimony as transcribed by the court reporter.</p> <p>9 _____</p> <p>10 Date Dr. Robert Johnson 11 Sworn to and subscribed before me, a Notary Public in and for the State and County, the referenced witness did personally appear and acknowledge that:</p> <p>12 They have read the transcript; 13 They signed the foregoing Sworn Statement; and 14 Their execution of this Statement is of their free act and deed.</p> <p>15 I have affixed my name and official seal</p> <p>16 this _____ day of _____, 20_____. 17</p> <p>18 Notary Public 19 Commission Expiration Date</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 84</p>
<p>1 Veritext Legal Solutions 1100 Superior Ave 2 Suite 1820 1 Cleveland, Ohio 44114 3 Phone: 216-523-1313</p> <p>4</p> <p>5 August 22, 2023</p> <p>6 To: ALEX ABSTON</p> <p>7 Case Name: National Prescription Opiate Litigation - Track 9 (Tarrant County) v.</p> <p>8 Veritext Reference Number: 6024054</p> <p>9 Witness: Dr. Robert Johnson Deposition Date: 8/9/2023</p> <p>10</p> <p>11 Dear Sir/Madam:</p> <p>12 Enclosed please find a deposition transcript. Please have the witness 13 review the transcript and note any changes or corrections on the 14 included errata sheet, indicating the page, line number, change, and 15 the reason for the change. Have the witness' signature notarized and 16 forward the completed page(s) back to us at the Production address shown</p> <p>17</p> <p>18 above, or email to production-midwest@veritext.com.</p> <p>19 If the errata is not returned within thirty days of your receipt of 20 this letter, the reading and signing will be deemed waived.</p> <p>21</p> <p>22 Sincerely,</p> <p>23</p> <p>24 Production Department</p> <p>25 NO NOTARY REQUIRED IN CA</p>	<p>Page 83</p> <p>1 DEPOSITION REVIEW 2 CERTIFICATION OF WITNESS</p> <p>3 ASSIGNMENT REFERENCE NO: 6024054 4 CASE NAME: National Prescription Opiate Litigation - Track 9 (Tarrant County) v. 5 DATE OF DEPOSITION: 8/9/2023 6 WITNESS' NAME: Dr. Robert Johnson 7 In accordance with the Rules of Civil Procedure, I have read the entire transcript of my testimony or it has been read to me. 8 I have listed my changes on the attached Errata Sheet, listing page and line numbers as well as the reason(s) for the change(s). 9 I request that these changes be entered as part of the record of my testimony.</p> <p>10</p> <p>11 I have executed the Errata Sheet, as well 12 as this Certificate, and request and authorize that both be appended to the transcript of my testimony and be incorporated therein.</p> <p>13</p> <p>14 Date Dr. Robert Johnson</p> <p>15 Sworn to and subscribed before me, a 16 Notary Public in and for the State and County, the referenced witness did personally appear and acknowledge that:</p> <p>17 They have read the transcript; 18 They have listed all of their corrections in the appended Errata Sheet; 19 They signed the foregoing Sworn Statement; and 20 Their execution of this Statement is of their free act and deed.</p> <p>21</p> <p>22 I have affixed my name and official seal this _____ day of _____, 20_____. 23</p> <p>24 Notary Public</p> <p>25 Commission Expiration Date</p>	<p>Page 85</p>

Page 86

1 ERRATA SHEET

2 VERITEXT LEGAL SOLUTIONS MIDWEST

2 ASSIGNMENT NO: 6024054

3 PAGE/LINE(S) / CHANGE /REASON

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19 _____

20 Date Dr. Robert Johnson

21 SUBSCRIBED AND SWORN TO BEFORE ME THIS _____

22 DAY OF _____, 20 _____.
23 _____

Notary Public

24 _____

25 Commission Expiration Date